

Introduced by Senator Ashburn

February 24, 2006

An act to amend Section 70 of, and to repeal Section 74.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1633, as introduced, Ashburn. Property tax: seismic retrofitting: tax assessments.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution excludes from classification as "new construction" the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following the reconstruction or improvement. Pursuant to an authorization in the California Constitution, existing law excludes from classification as "new construction" the construction or installation in existing buildings of certain seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies.

A proposed amendment to the California Constitution, Senate Constitutional Amendment ____ of the 2005-06 Regular Session, would eliminate, for purposes of the exclusion from classification as "new construction" of structures constructed of unreinforced masonry bearing wall construction, the requirement that the reconstruction or

improvement to those structures be necessary to comply with a local ordinance relating to seismic safety, as specified, and would, instead, require that the reconstruction or improvement be necessary for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. That amendment would additionally exclude from classification as “new construction” any seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies that are constructed or installed in existing buildings or structures, as specified.

This bill would implement the proposed amendment to the California Constitution, and would also impose new duties on local building departments with respect to reporting the value of excluded improvements for structures constructed of unreinforced masonry wall construction. By creating new duties for local officials, this bill would impose a state-mandated local program. Also, by requiring specified persons to certify information regarding specific improvements to structures constructed of unreinforced masonry bearing wall construction, this bill would create a new crime, thereby imposing a state-mandated local program.

(2) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(4) This bill would take effect immediately as a tax levy but would become operative, as specified, only if Senate Constitutional

Amendment ____ of the 2005-06 Regular Session is approved by the voters at the June 6, 2006, statewide primary election.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 70 of the Revenue and Taxation Code is
2 amended to read:

3 70. (a) “Newly constructed” and “new construction” means:

4 (1) Any addition to real property, whether land or
5 improvements (including fixtures), since the last lien date; and

6 (2) Any alteration of land or of any improvement (including
7 fixtures) since the last lien date that constitutes a major
8 rehabilitation thereof or that converts the property to a different
9 use.

10 (b) Any rehabilitation, renovation, or modernization that
11 converts an improvement or fixture to the substantial equivalent
12 of a new improvement or fixture is a major rehabilitation of that
13 improvement or fixture.

14 (c) ~~Notwithstanding the provisions of subdivisions (a) and (b),~~
15 ~~where real property has been damaged or destroyed by~~
16 ~~misfortune or calamity, “newly constructed” and “new~~
17 ~~construction” does not mean any timely reconstruction of the real~~
18 ~~property, or portion thereof, where the property after~~
19 ~~reconstruction is substantially equivalent to the property prior to~~
20 ~~damage or destruction. Any reconstruction of real property, or~~
21 ~~portion thereof, that is not substantially equivalent to the~~
22 ~~damaged or destroyed property, shall be deemed to be new~~
23 ~~construction and only that portion that exceeds substantially~~
24 ~~equivalent reconstruction shall have a new base year value~~
25 ~~determined pursuant to Section 110.1.~~

26 (d) (1) ~~Notwithstanding the provisions of subdivisions (a) and~~
27 ~~(b), where a structure must be improved to comply with local~~
28 ~~ordinances on seismic safety, “newly constructed” and “new~~
29 ~~construction” does not mean the portion of reconstruction or~~
30 ~~improvement to a structure, constructed of unreinforced masonry~~
31 ~~bearing wall construction, necessary to comply with the local~~
32 ~~ordinance. This exclusion shall remain in effect during the first~~
33 ~~15 years following that reconstruction or improvement (unless~~

~~the property is purchased or changes ownership during that period, in which case the provisions of Chapter 2 (commencing with Section 60) of this division shall apply) for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, as defined in subdivision (g).~~

~~(2) In the sixteenth year following the reconstruction or improvement referred to in paragraph (1), the assessor shall place on the roll the current full cash value of the portion of reconstruction or improvement to the structure that was excluded pursuant to this subdivision. The property owner, primary contractor, civil or structural engineer, or architect shall certify to the building department those portions of the project that are seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. Upon completion of the project, the building department shall report the value of those portions of the project that are seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies to the county assessor.~~

~~(3) The governing body that enacted the local ordinance shall issue a certificate of compliance upon the request of the owner who, pursuant to a notice or permit issued by the governing body that specified that the reconstruction or improvement is necessary to comply with a seismic safety ordinance, so reconstructs or improves his or her structure in accordance with the ordinance. The certificate of compliance shall be filed by the property owner with the county assessor not later than six months after the completion of the project. The failure to file a certificate of completion within the prescribed filing period shall be deemed a waiver of the exclusion for that year. In order to receive the exclusion, the property owner shall notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project.~~

~~(e) (1) Notwithstanding subdivisions (a) and (b), “newly constructed” and “new construction” does not include seismic~~

1 *retrofitting improvements or improvements utilizing earthquake*
2 *hazard mitigation technologies to an existing building or*
3 *structure.*

4 *(2) The property owner, primary contractor, civil or structural*
5 *engineer, or architect shall certify to the building department*
6 *those portions of the project that are seismic retrofitting*
7 *improvements or improvements utilizing earthquake hazard*
8 *mitigation technologies. Upon completion of the project, the*
9 *building department shall report the value of those portions of*
10 *the project that are seismic retrofitting improvements and*
11 *improvements utilizing earthquake hazard mitigation*
12 *technologies to the county assessor.*

13 *(3) In order to receive the exclusion, the property owner shall*
14 *notify the assessor prior to, or within 30 days of, completion of*
15 *the project that he or she intends to claim the exclusion for*
16 *seismic retrofitting improvements or improvements utilizing*
17 *earthquake hazard mitigation technologies. The State Board of*
18 *Equalization shall prescribe the manner and form for claiming*
19 *the exclusion. All documents necessary to support the exclusion*
20 *shall be filed by the property owner with the assessor not later*
21 *than six months after the completion of the project.*

22 *(4) This subdivision shall only apply to projects completed on*
23 *or after January 1, 1991.*

24 ~~(e)–~~

25 *(f) (1) Notwithstanding the provisions of subdivisions (a) and*
26 *(b), where a tank must be improved, upgraded, or replaced to*
27 *comply with federal, state, and local regulations on underground*
28 *storage tanks, “newly constructed” and “new construction” does*
29 *not mean the improvement, upgrade, or replacement of a tank to*
30 *meet compliance standards, and the improvement, upgrade, or*
31 *replacement shall be considered to have been performed for the*
32 *purpose of normal maintenance and repair.*

33 *(2) Notwithstanding the provisions of subdivisions (a) and (b),*
34 *where a structure, or any portion thereof, was reconstructed, as a*
35 *consequence of completing work on an underground storage tank*
36 *to comply with federal, state, and local regulations on these*
37 *tanks, timely reconstruction of the structure shall be considered*
38 *to have been performed for the purpose of normal maintenance*
39 *and repair where the structure, or portion thereof, after*

1 reconstruction is substantially equivalent to the prior structure in
2 size, utility, and function.

3 (g) *For purposes of this section:*

4 (1) *“Seismic retrofitting improvements” means retrofitting or*
5 *reconstruction of an existing building or structure, to abate*
6 *falling hazards from structural or nonstructural components of*
7 *any building or structure including, but not limited to, parapets,*
8 *appendages, cornices, hanging objects, and building cladding*
9 *that pose serious danger. “Seismic retrofitting improvements”*
10 *also means either structural strengthening or providing the*
11 *means necessary to resist seismic force levels that would*
12 *otherwise be experienced by an existing building or structure*
13 *during an earthquake, so as to significantly reduce hazards to*
14 *life and safety while also providing for the substantially safe*
15 *ingress and egress of building occupants during and immediately*
16 *after an earthquake. “Seismic retrofitting improvements” does*
17 *not include alterations, such as new plumbing, electrical, or*
18 *other added finishing materials, made in addition to*
19 *seismic-related work performed on an existing structure.*
20 *“Seismic retrofitting” includes, but is not limited to, those items*
21 *referenced in Appendix Chapters 5 and 6 of the Uniform Code*
22 *for Building Conservation of the International Conference of*
23 *Building Officials.*

24 (2) *“Improvements utilizing earthquake hazard mitigation*
25 *technologies” means improvements to existing buildings*
26 *identified by a local government as being hazardous to life in the*
27 *event of an earthquake. These improvements shall involve*
28 *strategies for earthquake protection of structures. These*
29 *improvements shall use technologies such as those referenced in*
30 *Part 2 (commencing with Section 101) of Title 24 of the*
31 *California Building Code and similar seismic provisions in the*
32 *Uniform Building Code.*

33 SEC. 2. Section 74.5 of the Revenue and Taxation Code is
34 repealed.

35 ~~74.5. (a) For purposes of paragraph (4) of subdivision (c) of~~
36 ~~Section 2 of Article XIII A of the California Constitution, “newly~~
37 ~~constructed” and “new construction” does not include seismic~~
38 ~~retrofitting improvements and improvements utilizing earthquake~~
39 ~~hazard mitigation technologies, to an existing building or~~
40 ~~structure.~~

1 (b) ~~For purposes of this section:~~

2 (1) ~~“Seismic retrofitting improvements” means retrofitting or~~
3 ~~reconstruction of an existing building or structure, to abate~~
4 ~~falling hazards from structural or nonstructural components of~~
5 ~~any building or structure including, but not limited to, parapets,~~
6 ~~appendages, cornices, hanging objects, and building cladding that~~
7 ~~pose serious danger. “Seismic retrofitting improvements” also~~
8 ~~means either structural strengthening or providing the means~~
9 ~~necessary to resist seismic force levels that would otherwise be~~
10 ~~experienced by an existing building or structure during an~~
11 ~~earthquake, so as to significantly reduce hazards to life and safety~~
12 ~~while also providing for the substantially safe ingress and egress~~
13 ~~of building occupants during and immediately after an~~
14 ~~earthquake. “Seismic retrofitting improvements” does not include~~
15 ~~alterations, such as new plumbing, electrical, or other added~~
16 ~~finishing materials, made in addition to seismic-related work~~
17 ~~performed on an existing structure. “Seismic retrofitting”~~
18 ~~includes, but is not limited to, those items referenced in~~
19 ~~Appendix Chapters 5 and 6 of the Uniform Code for Building~~
20 ~~Conservation of the International Conference of Building~~
21 ~~Officials.~~

22 (2) ~~“Improvements utilizing earthquake hazard mitigation~~
23 ~~technologies” means improvements to existing buildings~~
24 ~~identified by a local government as being hazardous to life in the~~
25 ~~event of an earthquake. These improvements shall involve~~
26 ~~strategies for earthquake protection of structures. These~~
27 ~~improvements shall use technologies such as those referenced in~~
28 ~~Part 2 (commencing with Section 101) of Title 24 of the~~
29 ~~California Building Code and similar seismic provisions in the~~
30 ~~Uniform Building Code.~~

31 (c) ~~The property owner, primary contractor, civil or structural~~
32 ~~engineer, or architect shall certify to the building department~~
33 ~~those portions of the project that are seismic retrofitting~~
34 ~~improvements or improvements utilizing earthquake hazard~~
35 ~~mitigation technologies. Upon completion of the project, the~~
36 ~~building department shall report the value of those portions of the~~
37 ~~project that are seismic retrofitting improvements and~~
38 ~~improvements utilizing earthquake hazard mitigation~~
39 ~~technologies to the county assessor.~~

~~(d) In order to receive the exclusion, the property owner shall notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project.~~

~~(e) The exclusion from “newly constructed” and “new construction” under this section is not applicable to seismic safety reconstruction and improvements that qualify for the exclusion provided in subdivision (d) of Section 70.~~

~~(f) This section shall only apply to projects completed on or after January 1, 1991.~~

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

SEC. 6. This act shall become operative only if Senate Constitutional Amendment ____ of the 2005-06 Regular Session is approved by voters at the June 6, 2006, statewide primary election and, in that event, shall become operative on the date

- 1 upon which this act is chaptered or the effective date of that
- 2 measure, whichever is later.

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